

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DENISE TSIBOURIS,
Plaintiff,

vs.

RMH FRANCHISE HOLDINGS, INC.,
Defendant.

Case No. 1:19-cv-161
Barrett, J.
Litkovitz, M.J.

**REPORT &
RECOMMENDATION**

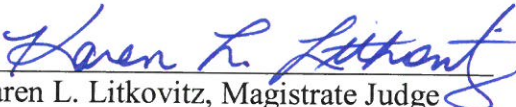
Plaintiff initiated this action on March 5, 2019 against defendant RMH Franchise Holdings, Inc., alleging employment discrimination pursuant to 42 U.S.C. § 2000e. (Doc. 3). On March 5, 2019, plaintiff was granted leave to proceed *in forma pauperis* and was ordered to inform the Court promptly of any changes in her address which may occur during the pendency of this lawsuit. (Doc. 2). Official case-related documents mailed by the Court to plaintiff's address listed on the Court's docket have been returned by the U.S. Postal Service with the notation "attempted – not known" and "unable to forward." (Doc. 10). On February 19, 2020, the Court ordered plaintiff to show cause, in writing and within fifteen days, why this action should not be dismissed for lack of prosecution and for failing to obey a Court order. (Doc. 11). Plaintiff was advised that her failure to comply with the terms of the show cause order would result in a recommendation to the District Court that this action be dismissed.

To date, more than fifteen days later, plaintiff has not responded to the show cause order and there is no indication from the docket that plaintiff is actively engaged in litigating this case. Accordingly, dismissal is appropriate. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962); *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991).

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's complaint be **DISMISSED** with prejudice for lack of prosecution and for failure to obey a Court order.
2. The Court certify pursuant to 28 U.S.C. § 1915(a) that for the foregoing reasons an appeal of this Order would not be taken in good faith and therefore deny plaintiff leave to appeal *in forma pauperis*. Plaintiff, a non-prisoner, remains free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

Date: 3/10/20


Karen L. Litkovitz, Magistrate Judge
United States District Court

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NOTICE TO THE PARTIES REGARDING FILING OF OBJECTIONS TO THIS R&R

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to these proposed findings and recommendations within **FOURTEEN DAYS** after being served with this Report and Recommendation ("R&R"). Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to seventeen days (excluding intervening Saturdays, Sundays, and legal holidays) because this R&R is being served by mail. That period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. If the R&R is based, in whole or in part, upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).